

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RAYMOND DAVID KILDUFF,

2:13-CV-305 JCM (PAL)

Plaintiff(s),

V.

MGM RESORTS INTERNATIONAL
d/b/a ARIA,

Defendant(s).

ORDER

Presently before the court is defendant MGM Resorts International's motion for attorney fees. (Doc. # 27). Plaintiff has not filed a response and the response date for filing a response has passed.

Plaintiff allegedly slipped and fell inside a bar located in side the Aria Resort and Casino. The plaintiff apparently misidentified the correct casino and sued this defendant, MGM, instead of the Aria. Defendant filed a motion to dismiss, and this court granted the motion pursuant to local rule 7-2(d) because plaintiff never responded to the motion to dismiss.

Defendant now seeks attorney fees in defending this lawsuit. A court may “award counsel fees to a successful party when his opponent has acted in bad faith, vexatiously, wantonly, or for oppressive reasons.” *United States v. Standard Oil Co. of California*, 603 F.2d 100, 103 (9th Cir. 1979). Defendant’s state that plaintiff’s counsel acted in bad faith; however, the arguments are really

1 that plaintiff's counsel is lazy and incompetent. The court does not find bad faith based on the
2 conduct in this litigation and declines to award fees.

3 Accordingly,

4 IT IS HEREBY ORDERED, ADJUDGED, DECREED that defendant's motion for attorney
5 fees (doc. # 27) be, and the same hereby, is DENIED.

6 DATED June 26, 2013.

7 
8 UNITED STATES DISTRICT JUDGE
9

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28